

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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ANTHONY LEE HOSKINS,

Plaintiff,

v.

Case No. 05-C-113

MAURICE WOULFE and  
OFFICER POST,

Defendants.

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**ORDER**

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Plaintiff Anthony Lee Hoskins, who is incarcerated at the Jackson Correctional Institution, filed this pro se civil rights action pursuant to 42 U.S.C. § 1983. He is proceeding on a Fourth Amendment excessive force during arrest claim based on the allegations set forth in his May 19, 2005, amended complaint. The plaintiff paid the full filing fee for this action and, therefore, it is his responsibility to serve the defendants. Service has not yet been made on the defendants.

On June 23, 2005, the plaintiff filed a "Motion," pursuant to Federal Rule of Civil Procedure 45(a)(1)(C), in which he states that he would like to submit as evidence photographs of his injury that Attorney Nelida Cortes possesses. The plaintiff would also like to have the police report of the incident submitted.

As noted, the plaintiff has not yet served the defendants with a copy of the summons and complaint in this action as required by the federal procedural rules. See Rule 4 of the Federal Rules of Civil Procedure (copy enclosed). Once the defendants have been properly served, the court will enter a scheduling order in this case. The scheduling order will set deadlines for the completion of discovery and for the filing of dispositive motions. The plaintiff

is advised that, after the defendants have been served, the parties can exchange discovery in accordance with the federal procedural rules and without involvement of the court. Civil Local Rule 37.1 sets forth the procedure for motions for discovery when parties are unable to resolve any discovery dispute.<sup>1</sup>

With respect to the plaintiff's pending "Motion," Federal Rule of Civil Procedure 45 governs subpoenas, both for discovery purposes and for hearing or trial. The defendants, who have not yet been served, have not answered the complaint, nor has a scheduling order been issued. Thus, any request for the issuance of a subpoena is premature. Accordingly the plaintiff's motion will be denied.

**ORDER**

**NOW, THEREFORE, IT IS ORDERED** that the plaintiff's motion for order (Docket #17) be and hereby is **denied**.

Dated at Milwaukee, Wisconsin, this 28th day of June, 2005.

BY THE COURT:

s/Patricia J. Gorence  
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PATRICIA J. GORENCE  
United States Magistrate Judge

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<sup>1</sup> Civil Local Rule 37.1 provides:

All motions for discovery pursuant to Fed. R. Civ. P. 26 through 37 must be accompanied by a written statement by the movant that, after personal consultation with the party adverse to the motion and after sincere attempts to resolve their differences, the parties are unable to reach an accord. The statement must also recite the date and time of such conference and the names of all parties participating in it.